

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARIO MADRID,

Plaintiff,

No. 17-11266

v.

District Judge Avern Cohn
Magistrate Judge R. Steven Whalen

GLENN KING, ET AL.,

Defendants.

ERRATA TO DOCKET #22

On January 31, 2018, the undersigned filed a Report and Recommendation under 28 U.S.C. § 636(b)(1)(B), recommending in relevant part that Defendants Cindy Olmstead and Mark Holey's July 17, 2017 Motion to Dismiss [Docket #7] be denied as to the First Amendment retaliation claims against Defendant Olmstead and denied as to Defendant Olmstead's motion for qualified immunity. *Docket #22*.

In finding that the Michigan Braille Transcribing Fund ("MBTF") was a state actor, I reasoned as follows:

[MBTF] operates solely within the grounds of [G. Robert Cotton Correctional Facility] RCF, an MDOC facility. *Response*, 6-7, *Docket #14*, Pg ID 139; *see also Plaintiff's Exhibit 1*, Pg ID 153. MBTF uses the same address as JCF on its letterhead and its telephone number (although it has its own extension) is the same as JCF's. *Id.* MBTF, a non-profit, uses prison labor. *Id.* Olmstead, the director of MBTF, created the wage scales for prisoners employed by the MBTF. *Plaintiff's Exhibit 4*. Olmstead hired prisoners and the relationship between the prisoners and MBTF is dictated by the MDOC Policy Directive. *Plaintiff's Exhibit 5*, Pg ID 216, *Plaintiff's Exhibit 7*, Pg ID 225. The MBTF

“salary cap” is also dictated by MDOC policy. *Plaintiff’s Exhibit 4*, Pg ID 209. Defendant King, a Corrections Officer at the JFC, was hired by Olmstead to maintain security at MBTF. *Plaintiff’s Exhibit 6*, Pg ID 219-221.

Docket #22, 11, Pg ID 368. As pointed out in Defendants Cindy Olmstead and Mark Holey’s objection to the Report and Recommendation, Plaintiff’s Exhibit 6 does not state that Olmstead hired MDOC corrections officer Defendant Glenn King. Rather, Exhibit 6 indicates that in November, 2013, Olmstead interviewed a *prisoner* by the name of *Kevin King* to work as a Brailist. *Plaintiff’s Exhibit 6*, Pg ID 221. The last sentence of the above paragraph should therefore be stricken from the Report and Recommendation.

However, aside from the mis-statement that Defendant Cindy Olmstead hired Defendant *Glenn King*, my rationale and conclusion that Olmstead and Holey are “state actors” remains unchanged. *See above; Docket #22* at 10-12.

IT IS SO ORDERED.

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: February 22, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on February 22, 2018, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen